

## MINUTES



## REGULAR MEETING OF THE PLANNING COMMISSION, CITY OF HAYWARD Council Chambers Thursday, March 25, 2004, 7:30 P.M. 777 "B" Street, Hayward, CA 94541

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### MEETING

The regular meeting of the Hayward Planning Commission was called to order at 7:30 p.m. by Chairperson Zermeno, followed by the Pledge of Allegiance.

### ROLL CALL

Present: COMMISSIONERS Bogue, McKillop, Sacks, Fraas, Halliday, Thnay  
CHAIRPERSON Zermeno  
Absent: COMMISSIONER None

Staff Members Present: Camire, Conneely, Looney, Patenaude

General Public Present: Approximately 15

### PUBLIC COMMENT

There were no public comments

### AGENDA

1. Revocation of Use Permit Application No. 80-3 - E&J Auto Wreckers / Daniel Wheat (Owner) - For an Auto Wrecking Facility - The Project is Located at 2851 West Winton Avenue - (Continued from January 22, 2004)
2. Zone Change Application No. PL-2003-0746 - Satish Narayan (Applicant) / Rana Ahmed (Owner) - Request to Modify Planned Development No. 88-4 to Divide a 23,675-Square-Foot Anchor Store into Three Smaller Stores - The project is located at 24989 Santa Clara Avenue
3. Use Permit Application No. PL-2004-0039 - Jim Towslee/PacLand Batavia Holdings (Applicant) / Frank J. Warn, Inc. (Owner) - Request for a Retail Center to Accommodate a 34,000-Square-Foot Regional Retail Building (Circuit City) with Two Retail Shops Buildings of 5,100 and 6,000 Square Feet on Approximately 5 Acres - The Project is Located at 2480 Whipple Road Easterly of the Intersection with Industrial Parkway Southwest and I-880

### PUBLIC HEARING

1. Revocation of Use Permit Application No. 80-3 - E&J Auto Wreckers / Daniel Wheat (Owner) - For an Auto Wrecking Facility - The Project is Located at 2851 West Winton Avenue - (Continued from January 22, 2004)

Principal Planner Patenaude recommended holding in abeyance the revocation until the Use Permit is processed. He noted that the application would be coming before the Commission

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later in the year.

Commissioner Fraas asked about the time limit for E&J since they have been out of compliance for quite awhile.

The public hearing opened and closed at 7:34 .m.

Commissioner Sacks moved, seconded by Commissioner Bogue, the staff recommendation of holding in abeyance the revocation of the Use Permit.

The motion passed unanimously.

2. Zone Change Application No. PL-2003-0746 – Satish Narayan (Applicant) / Rana Ahmed (Owner) - Request to Modify Planned Development No. 88-4 to Divide a 23,675-Square-Foot Anchor Store into Three Smaller Stores - The project is located at 24989 Santa Clara Avenue

Associate Planner Camire described the property and the history of the Planned Development. She noted that Gateway Plaza serves three neighborhoods in the area. The owner would like to divide the anchor store into three units. She said the applicant has stated that there are no prospects for tenants at this time. Staff recommends denial of the application since the two anchor stores can be supported by this size shopping center. If the anchor store were divided it may be detrimental to the long-term viability of the shopping center and is not consistent in meeting the goals of the General Plans Policies.

Commissioner Halliday asked about the original approval and Albertsons previous arrangement that no other drug store occupy the site. She asked whether the City had any involvement in this.

Associate Planner Camire said that the City was not involved since it was a lease arrangement and the requirement would be specified through the CC&R's.

Commissioner Thnay asked about historical data relative to how long a site of this size takes to fill when vacant.

Principal Planner Patenaude said this type of center could generally support two anchor tenants, a major and a junior. Since the smaller tenants are supported by the larger stores, this particular store needs to be a destination draw since it is tucked away toward the back.

Commissioner Thnay said there is no real sign from the freeway to let people know what is in the center.

Principal Planner Patenaude noted that this size of a center is too small for the kind of freeway signs found at Southland. However, this storefront is visible from Highway 92/Jackson Street.

Chairperson Zermeño asked whether the City gets involved in helping the owner search out tenants.



Principal Planner Patenaude responded that the City does not have the staff to provide that function. However, Economic Development Specialist Sally Porfido, with the Community and Economic Development Department, has been helpful to this applicant by supplying contacts to reach for tenants.

Chairperson Zermeno commented that the Center just lost a video store.

Principal Planner Patenaude explained that this would continue to happen until they get a major tenant.

The public hearing opened at 7:47 p.m.

Satish Narayan, applicant, explained that they consider Gateway Plaza a neighborhood commercial center, rather than the regional commercial center. He noted that a specialty store is not an anchor store or a major draw. The shoe store on site is a specialty store with an established clientele. The other stores are neighborhood stores. He emphasized that they are looking at lists of commercial users for neighborhood commercial centers. The 880-freeway is a commuter freeway and drivers would not stop at this center. This is not an area that would be defined as a destination nor is it readily accessible. There are tenants ready and willing to come into the center but they can't get approval from staff. Many people in the center would like something to be done to make this building more functional. This is almost 30 percent of the area of the center. If it is vacant, it will detract from the other shops. If the store could be divided others might be interested in leasing the space.

Commissioner McKillop asked how long the building has been unoccupied and how long they have been pursuing a tenant.

Mr. Narayan noted that they had owned the building since October and have pursued the regular markets. He commented that the CC&Rs would not discourage many of the tenants. The 99Cent store would not compete with others. That's the only restriction with the CC&Rs.

Commissioner Fraas asked about the drug store.

Mr. Narayan explained that if the use is idle for 18 months, they could bring something in. Rite Aid went out 3 years ago, the Sav-On component of Albertsons came in only 18 months ago. He also stated that they are marketing through regular channels. He said they do have tenants who would sign with them if the division were allowed. With the division they could focus on a different level of tenant for marketing. He emphasized that they have not been able to find a large enough tenant to fill the whole space. The rebuilding of the freeway in the area has not been a concern nor has it entered into any discussions.

Commissioner Fraas asked whether there are any other vacant shops in the center.

Mr. Narayan said just the recently vacated Video store is the only other spot that is vacant.

Victor Khan, real estate agent for the applicant, explained that this should be classified as a neighborhood shopping center. He commented that the development of the Safeway shopping center across the street has hurt this center the most. The Blockbuster hurt the video store. He named a number of stores competing with the Gateway Plaza in the Safeway shopping center. He commented on the access into this center. The center has been strongly marketed. The Rite Aid store building has been vacated for more than 3 years. The 99cent store chain would take this divided space in a heartbeat. However, since they sell milk and canned food, this would be prohibited by Albertsons through the CC&R's. The division of the space would enhance other retailers. The size of the store is unusual. He noted that the Chinese buffet would be amenable to the smaller space. They would add windows to the Jackson Street side of the building. He noted that they had a proposal from Dollar Store as well, which would fit into the center. He suggested the Commission agree to the division for the betterment of the shopping center.

Commissioner Bogue asked about owning the parcel separately but having it still under the control of the restrictions of Albertsons. He then asked about a letter of intent from the Chinese buffet.

Mr. Khan produced a letter from the Dollar Store as well as from the Chinese buffet.

Commissioner Thnay asked staff about the size of the Chinese Buffet on Mission located in the old Lyon's. Commissioner Bogue said it was less than 5,000 square feet. He commented that Albertsons wielding that kind of power on the center seems unequal, perhaps staff should talk with them.

Commissioner Fraas asked how long has they had owned the site. Mr. Khan said since October.

Commissioner Fraas asked why would it be in Albertsons best interest to have a huge empty store in that shopping center.

Mr. Khan said he tried to talk to Albertsons but they said review the CC&R's. Albertsons owns the store as well as the land and is not a tenant.

As an aside, Commissioner Fraas said there are enough 99-cent stores in Hayward.

Commissioner Sacks commented on the whole business of "why can't we all get along". She noted a small Chinese restaurant within the same shopping center as the Buffet and asked how they feel about a large buffet coming in to compete with them.

Mr. Khan explained that it would help them since they are fast food take out. It shouldn't hurt them. It would bring in more customers.

Commissioner Sacks said this is not a sure thing that the Chinese restaurant would attract more customers. The Commission cannot make the decision based on just the buffet. We need to



decide whether this would be a good concept to divide the anchor store contrary to the planned development concept for this center.

Chairperson Zermeño commented that this is a good point since they would be breaking up an anchor store.

Commissioner McKillop asked staff whether this was intended to be a regional center.

Principal Planner Patenaude responded that it is a neighborhood center but the size of the center can support a junior anchor, so it is not a regional anchor necessarily but the size of the building could attract a tenant of a regional nature.

Commissioner Bogue in looking at the letter of intent from the other store commented that they were asking for many other things not allowed in other parts of the City of Hayward so they might not have many of their wishes granted by staff.

Chairperson Zermeño asked what two other businesses might be interested.

Mr. Khan noted that he had explored interest from IHOP and the Hawaiian Bar-B-Que, which would do very well. This would give people a chance to discover a variety of food. The Chinese buffet would like to open up the Jackson Street side with windows. People would be more interested in seeing what is going on.

Commissioner Halliday suggested that since the Nation's is struggling and went in at a later time but have more visibility, what is the applicant's rationale for thinking that these other restaurants would do any better.

Mr. Khan said Taco Bell is doing better than Nation's Burgers. The Nation's does not have a drive-through.

Rana Ahmed, owner, explained the problems of graffiti and homelessness as well as vandalism in this building. He noted that they are trying to rent this out but most people want a smaller space. He stated that they are ready to sign the lease with the Chinese Buffet, but they do not have the authority. He would love to get the building occupied adding that it would be good for the City and them as well.

The public hearing closed at 8:31 p.m.

Commissioner Sacks said she definitely appreciated what staff is recommending. It's also a shame that this makes it sound as though Albertsons is the bad guy. Right outside our doors is a similar situation. There is an Albertsons and a series of smaller places without a junior anchor and it seems to be working well. She remembered learning that a restaurant would do better with other restaurants than on its own. There is a synergy that is created, which is not in

other places. She said she is willing to listen to other commissioners on this but she was tending to do what the applicant requests.

Principal Planner Patenaude explained that the dynamics of this are different from downtown. He noted that one of the goals of the City for downtown is to locate a second anchor at the other end of B Street. The applicant agrees that most of the traffic is at the Albertsons. The stores that benefit most in this center are those around the Albertsons. Without a major draw in that distant corner, the other tenants would suffer. Smaller stores tend not to draw. He added that it's only recently that this owner has been working with a marketer. City staff provided a contact to an agent familiar with Gateway Plaza emphasizing that the store has been owned by this owner for 6 months or since last October.

Commissioner Thnay said he remembered when a former mayor wanted this area to have a major hotel for a real regional draw, and then it was scaled down. He noted that he would be willing to give it a try. However, the General Plan promotes this as an entryway into the City. He said he was willing to wait to see what the applicant might be able to come in with in about six months as to firm commitments and something more substantive.

Commissioner McKillop said she was also thinking about the downtown Albertsons and the small shops. She said she was now clearer on staff's concept for this location as a planned development with two anchors.

Commissioner Fraas said she appreciated the frustration of the applicant not finding a tenant. The solution is shortsighted. She said the planned development calls for two anchor tenants and we should honor it. She said she did not want to settle for mediocrity adding that we are a valuable community. Dividing would be settling. She wanted what was the best plan for the community. This proposal would lower our standards, which would be a long-term disservice to the community.

Commissioner Halliday said she was persuaded by other commissioners. She expressed worry that the rebuilding of the 880-interchange will make it rough for everyone in the center. Once it's done the area will be enhanced. However, she said she was not ready to give up on a larger store. Although she was sympathetic with the competition, she suggested the applicant keep trying a little longer.

Commissioner Bogue said he agreed with much that has been said, a second anchor is in the planned development. He moved, seconded by Commissioner Fraas, the staff recommendation, without prejudice, if the owner comes back within six months, they could hear it again.

Chairperson Zermeño said he agreed with the other Commissioners. They have owned the store only 6 months, give it at least another six.

Commissioner Sacks agreed with everyone and had been persuaded. She was reminded that this is not unlike being out of work for six months, which is not that long a period of time. She stated that the Commission wants to keep with what they really want.



Chairperson Zermeño reopened the public hearing 8:45 p.m.

Satish Narayan maintained that this property has been in bankruptcy twice because of the second anchor. This has been on going for the past 3 years. He said he appreciated what the Commission was trying to do. However, this is still a neighborhood shopping center.

The hearing was re-closed at 8:47 p.m.

The motion passed unanimously.

Chairperson Zermeño reminded everyone that they had 10 days to appeal.

3. Use Permit Application No. PL-2004-0039 – Jim Towslee/PacLand Batavia Holdings (Applicant) / Frank J. Warn, Inc. (Owner) – Request for a Retail Center to Accommodate a 34,000-Square-Foot Regional Retail Building (Circuit City) with Two Retail Shops Buildings of 5,100 and 6,000 Square Feet on Approximately 5 Acres – The Project is Located at 2480 Whipple Road Easterly of the Intersection with Industrial Parkway Southwest and I-880

Principal Planner Patenaude described the site and its location noting that the site is presently occupied by Crescent Truck Terminal. The Circuit City driveway would line up with a realigned Target driveway where a signal light would be installed. One feature of the proposal will be good pedestrian circulation pattern through the parking lot to the store. Two smaller shop areas would be located on the site as well. Changes were made to the design from suggestions of both staff and the City Council Commercial Shopping Center Committee. At this point, Staff recommended approval of the application. He noted that the same conditions for uses for the accessory shops at the Target center would also apply to this center. Condition 31 was reworded with connections to adjacent properties. The Planning Manager from Union City sent a letter of concern regarding the traffic in this area. However, the traffic study shows no impacts on surrounding areas.

Commissioner Halliday said she was pleased with the pedestrian access throughout the center but one of the maps has it in a different location. She said the new map is much better. She also asked about condition 31 regarding a sign on the Shurgard driveway prohibiting left-hand turns onto Whipple Road.

Principal Planner Patenaude said staff had talked with the City Attorney and the City cannot require this applicant to erect signs on Shurgard property. The City of Hayward can require the signs if it is deemed to be a problem. The main concern is for Shurgard to get into and out of their property.

Commissioner Bogue commented on the under grounding of wires along Whipple Road as well as the size of the trash enclosure area. He noted the differences between what was under

consideration versus the previous proposal to the Shopping Center Committee.

Principal Planner Patenaude said the waste disposal would determine the area needed.

Commissioner Fraas asked about the Union City letter. She commented that the traffic study seemed to address those question. Her second question was about the Target wetlands area.

Principal Planner Patenaude commented that there would be no issue regarding the wetlands since the drive way would be moved farther away.

Commissioner Thnay noted that there is no median in this section. To do it properly, a median at this intersection would protect the pedestrians and might be clearer. A non-raised median indicates that cars can go anywhere. Because it is so close to the off ramp, trying to turn into this lane might back up traffic. The right turn deceleration lane is necessary and should be considered. Safety is an issues to consider. He added that there is also no bike rack.

Commissioner Bogue asked whether a right turn lane would take property from the service station.

Principal Planner Patenaude said it would only be the width of the project itself. He said this is not the final design of the intersection because of no agreement had been reached with Target. It might include a median and other safety factors. The traffic study said there would be no impact on adjacent intersections.

Chairperson Zermeno asked about a freeway sign to be nice and visible. He asked about the two billboards and would they remain in the way of the circulation in the driveway.

Principal Planner Patenaude said that although the billboard looks like it is in the way, it has a single-pole support. Staff was hoping they would be gone but they cannot be removed.

Chairperson Zermeno asked about a median for pedestrian and bicycle traffic as well as the size of this store versus the Hesperian store.

The public hearing opened at 9:16 p.m.

Jim Towslee for PacLand, complimented the professional staff at the City Of Hayward. He commented on the terrific visibility and challenging access at this site. They will need the traffic signal to make it a reality. Already they have an agreement in principal with Target as to the driveways and the signal light. He appreciated the great feedback from the subcommittee. He described the design as a pretty nice presentation. There are 93 conditions of approval. He asked whether on the Circuit City sign, 15 d., the perimeter white circle could be illuminated as well as the name. Condition 30, property owners shall mean "on-site" property owners. He said this is a great opportunity to co-anchor with Target. They are complimentary to each other. As to condition 31, they understand intra-party approvals but need to negotiate business terms. He said they applaud staff with their flexibility and see this as very positive. Condition 22., take down the fence at the gas station. He said they would cooperate with the station but since the fence is on their side of the property, they do not have



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Council Chambers

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the right to do so. Condition 20, they have no problem with, but why go to this expense, if Shurgard redevelops into retail they will not want this expensive fence. They would not want an open fence if they do not redevelop. He suggested they be allowed to install a site obscuring, solid fence that might be temporary. Condition 21 as well, with Caltrans existing sound wall which is about halfway across their southern boundary. It seems to be an expensive redundancy. Building on the Caltrans Right of Way. They suggest putting up a nicer fence than what is presently there. They thought they were in great shape except for the traffic study. They are trying to get this on-line by the end of the year. He felt that they dealt with pedestrian safety on site. With a signal light you can have a crosswalk. He added that they would stipulate bike racks. As to the billboard, it is under a long-term lease, so they cannot make them go away.

Commissioner Sacks asked about condition 21 regarding fences.

Principal Planner Patenaude said staff would address all the fence conditions. As to condition number 20, we do not know when there might be redevelopment at the property. Temporary can be a long time, staff did not ask for a solid fence but for an attractive fence which would be cheaper. Also it has landscaping to screen the Shurgard doors. Wood fencing is not appropriate on any commercial projects. The southern part, condition #21, along Amaral Court, the immediate property is vacant right now. The fence will block noise levels to protect the residents of the mobile home park. On the southwest, staff will agree to no replacement of the fence along the off-ramp, also the parking lot with the landscaping will not be unattractive, vehicles will be able to see into the parking lot. Condition #22, the chain link fence sits atop a retaining wall, it functions as the property line. The chain link appears to be of the same era and construction as the rest of the chain link and barbed wire. They are wanting to see that removed.

Mr. Towslee said they do not disagree, they also want the chain link fence removed as well, they would like to work with their neighbor since it might not be appropriate for them to just go in and remove it. As to the mobile home residents, they will have a reduction in noise as opposed to the freeway and the present truck terminal today. They also cannot ask Caltrans to replace the fence. Erecting a fence will be a graffiti magnet and they do not want that as the backside of their store. They do not want to look at Shurgard. He said they would agree to a chain link with vinyl slats. Although these are small nuances, they add up to \$100,000. They intend to spend \$10 million more, so they are asking for consideration of those thoughts.

Thomas Almond, gas station owner, talked about the project. He said he just came from work. Circuit City could be very good for this area. When the Target Store came in, the street was redesigned and the traffic flow is better than he has ever seen it. Makes it easy to get in and out. Traffic congestion is relieved. He thought bike lanes on Whipple Road would be hazardous. Parking in front of the service station is now a red curb. Traffic is slowed because of the left hand turns into Target and the right turns into his service station. The light will make it better it will slow traffic down even more. He said a median would kill his business.

Using the design of Mission and A is going to make it a great place. He commented that the chain link fence between their properties was put up by Crescent trucks and is on their property. He said he would like to see all the fencing go away. He said they have plans to modernize their service station. It is a gateway to Hayward.

Chairperson Zermeno asked whether he knew who owns the property near the service station, which is still an eyesore. Mr. Almond did not.

Commissioner Fraas clarified that Mr. Almond had no objection to removing the chain link fence.

Mr. Almond said it is an ugly fence, he would have no objection to removing it. The way it's laid out, the City has done a good job.

Gloria New-Semore, speaking for the Central Parkwest mobile homeowner's association, said they only received the notice a week and a half ago. She presented a petition from a cross section of people of the community who oppose having the center there. She said the sentiments of the residents in the area is not to have this. They were concerned about the traffic in the area.

Commissioner Halliday asked about the fence and what their major objection would be to the whole project.

Ms. New-Semore responded that this is a 5-acre project, but there is a whole lot more going on. She said they do not need more empty buildings. The fence should be a shared expense.

Commissioner Fraas asked her about the traffic problems. She then asked her about the present truck line.

Ms. New-Semore said that Crescent truck line is not a problem.

Commissioner Sacks asked about the closeness of the fence to the mobile home park.

Ms. New-Semore described a present fence that lacked maintenance.

The public hearing was closed at 10:08 p.m.

Principal Planner Patenaude clarified that the applicant had also mentioned condition 15.d., including the outline for sign, staff would agree, condition 30 refers to onsite arrangements. Access in 31 will be okay. Regarding the boundary there is a street right-of-way between the mobile home and this property. The zoning ordinance calls for masonry on commercial properties. There was no call for a variance for other type of materials. They would like to see no fencing between these properties but Suregard needs the safety and insurance of their property. Regarding the fencing on the southwest along I 880, there are a number of other situations in the City of Hayward along BART and other properties, staff usually requires vine pockets to grow and cover up the outside wall. There have not been issues with property owners having the right to maintain those.



Commissioner Bogue moved, seconded by Commissioner Fraas, to approve the staff recommendation as well as modifying conditions 20., allow them to modify the existing chain link fence on the eastern property line with repairs, replacement and black slats for sight obscuring capability; condition 22, applicant to remove and replace the existing fence with the neighboring owner's permission; 31, current from staff; condition 30, on-site; 15 d. to include the circular outline lighting.

Commissioner Fraas indicated that she would support no change in Condition 21 since it is the current design standard so he said he did not see any reason to change it.

Commissioner Thnay asked about condition 21, staff mentioned the redwood tree instead of masonry wall.

Principal Planner Patenaude said the auto auction has a buffer landscaping of redwood trees.

Commissioner Thnay asked what it would accomplish on the 880 side for a masonry wall to be erected.

Principal Planner Patenaude said the standard on commercial properties is to require masonry walls.

Commissioner Sacks said it could be a safety issue.

Commissioner Thnay said he understood the issue of the intersection. To raise the intention of the median is for the frontage of this project area, adjacent to left hand pocket into Target and the right into this business. He asked what would prevent people to make a left hand turn out of the business. He asked staff to take this into consideration. It would add a bit of buffer, prevent cars from making a left turn, and be a safer path for pedestrians.

Chairperson Zermeño said he would support the motion.

Commissioner Bogue said the elevations of the building are much improved from the previous showing to the council. This is really a great improvement.

Commissioner Halliday thanked Ms. New-Semore for coming and apologized for shortness of notice. She commented that there should be an earlier notification of residents. However, she would support the motion. She commented that she was surprised that this property was in Hayward. She admitted that she usually avoids the area because of the traffic patterns in the area.

The motion passed unanimously.

Chairperson Zermeño said anyone who wanted to appeal had 10 days in which to do so.

#### **ADDITIONAL MATTERS**

4. Oral Report on Planning and Zoning Matters

5.

Principal Planner Patenaude commented that since this was Commissioner Halliday's last meeting, a resolution had been prepared for members to sign. The hope is she might come back to receive the resolution at a future date.

He then announced a scheduled meeting for April 8.

5. Commissioners' Announcements, Referrals

Chairperson Zermeño congratulated the other commissioners for running a fine, clean campaign in their bid for City Council, and he particularly added his congratulations to Commissioner Halliday for winning the race.

Commissioner Sacks reported on her pleasure in seeing the various projects formerly approved by the Commission including the Chevron station at Grove, the home at Main and Hotel, the clinic on Mission at Tennyson opened and doing business with the apartment above. She added that she had not seen one project they had approved that she did not like.

Commissioner Halliday said that as this was her last meeting, she would miss the members a lot. This has been an excellent group who are fantastic to work with. She said she is proud of the work they have done. Thanks to staff and everyone. Congratulations to the other candidates in the Council race. This campaign addressed the issues and was civil.

Chairperson Zermeño announced a conference in Riverside on "Healthy Cities and Smart Growth."

#### **APPROVAL OF MINUTES**

- January 22, 2004 Approved
- February 5, 2004 Approved

#### **ADJOURNMENT**

The meeting was adjourned by Chairperson Zermeño at 10:32 p.m.

APPROVED:

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Christopher Thnay, Secretary  
Planning Commission

**MINUTES**



**REGULAR MEETING OF THE PLANNING  
COMMISSION, CITY OF HAYWARD**

**Council Chambers**

**Thursday, March 25, 2004, 7:30 P.M.**

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**ATTEST:**

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Edith Looney  
Commission Secretary

***DRAFT***